

## IN THE FIFTH JUDICIAL DISTRICT OF IOWA

IN RE: SCHEDULING OF TRIALS IN  
POLK COUNTY

ADMINISTRATIVE ORDER 2021 - 1

In consideration of the anticipated resumption of jury trials on February 1, 2021, as well as the prior suspension of civil trials in Polk County until after January 1, 2021, a method of scheduling trials and coordinating both the criminal and civil trial dockets must be implemented. While the court system remains subject to the social distancing precautions implemented by the Iowa Judicial Branch and the Polk County Department of Public Health in response to the COVID-19 pandemic, such a system of scheduling and coordination must take place within the space limitations created by those precautions. It is hoped that the execution of this system throughout the remainder of 2021 will address and ultimately alleviate the backlog experienced in both the criminal and civil trial dockets brought about by the aforementioned suspension of trials. Furthermore, due to the anticipated greater use of physical space in the Polk County Historic Courthouse for jury trials, procedures will need to be implemented to fully utilize remote access to court services for non-jury civil and family law trials to proceed remotely.

Accordingly, IT IS THEREFORE ORDERED AS FOLLOWS:

### I. TRIAL LOCATIONS

Until the Polk County Health Department eases social distancing precautions, the Polk County Historic Courthouse and the Polk County Criminal Courts Building may only accommodate a maximum of five (5) jury trials at one time. Those trials shall be assigned to one of the trial courtrooms set forth below. Furthermore, each of these trial courtrooms shall enjoy a companion courtroom or space to be used to assist in jury selection, as a jury lounge and for jury deliberations. Those assignments are as follows:

**Trial Courtroom**  
Courtroom 310 (PCCC)  
Courtroom 410 (PCCC)

**Companion Courtroom**  
Courtroom 320 (PCCC)  
Courtroom 420 (PCCC)

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Courtroom 250 (PCHC)

Courtroom 340 (PCHC)

Courtroom 350 (PCHC)

Courtroom 330 (PCHC)

Jury Assembly Room (PCHC)

Jury Orientation Room (PCHC)

## **II. JUDICIAL OFFICERS**

Criminal jury trials shall be presided over by the judges assigned to those cases by previous order. Civil jury trials shall be presided over by the judge to whom that case has been assigned as part of the division of the general trial docket. In the event more than one trial assigned to a given judge proceeds to trial, a successor judge shall be assigned by Court Administration upon consultation with the chief judge. It shall be the responsibility of the assigned judge to monitor his or her docket to gauge the progress of the cases assigned thereto and to schedule such proceedings as are necessary to consult with counsel as needed, including but not limited to status conferences and a final pretrial conference.

Motions to continue trial shall be heard by the assigned judge and not by the chief judge or assistant chief judge as previously ordered. However, any decision to move a trial date shall be made in consultation with the Assistant Court Administrator tasked with maintaining the master trial calendar.

## **III. PRIORITIZATION OF TRIALS**

The prioritization and sub-classifications within the criminal dockets shall remain in place as previously ordered in section III of Administrative Order 2020-42. In addition, the provisions of section III(C) of that order pertaining to scheduling shall now apply to civil trial scheduling as well:

[C]ounsel for all scheduled trials shall be prepared to proceed on the scheduled trial date. In the event a higher prioritized case settles, or will not proceed on the morning of trial, the next highest prioritized case shall be substituted, and that case will proceed immediately to trial. This selection/substitution process shall continue until all five (5) trial slots are full or until the trial list for that trial week has been exhausted. The Assistant District Court Administrator (or designee) shall reschedule those cases that did not proceed to trial for the given trial week.

The prioritization of civil trials shall take into consideration the following factors, as evidenced from a review of the docket: 1) when the case was commenced; 2) the amount of

complexity involved, including the need to arrange for out-of-state travel for parties, witnesses and experts; and 3) whether the case has previously been bumped. Generally speaking, criminal trials are to be given priority over civil trials. That directive notwithstanding, in order to allocate judicial resources equitably, a civil trial may proceed to trial over a Priority 4 case, especially when the highest charge for the criminal case is a Class D felony or a misdemeanor. As a result, in determining the relative priority of the trial docket for a given week, Court Administration (in consultation with the chief judge) shall consider the priority and sub-classification given a criminal case, as well as the prioritization given a civil case; a Priority 4(F)-(G) criminal case is not guaranteed to go to trial before a civil trial.

#### **IV. COURTROOM PROCEDURES**

Section IV of Administrative Order 2020-42 shall continue for criminal jury trials and be extended to civil jury trials, with the following modifications:

1. The standard size of a jury group in a criminal trial shall be increased to up to fourteen (14) members, with jury selection staged into three segments at 9:00 a.m., 10:30 a.m. and 1:30 p.m. Criminal jury panels larger than forty (40) members, if approved by the chief judge or the assistant chief judge, shall be examined on a schedule consistent with this order and the schedule set out in section IV(B) of Administrative Order 2020-42.
2. Jury selection in a civil trial shall also take place in timed stages. Unless otherwise requested and approved by the Chief Judge or Assistant Chief Judge, each trial shall be granted a twenty-four (24) person jury panel. No more than twelve (12) prospective jurors shall be questioned in the trial courtroom at one time, with jury selection staged into two segments at 9:00 a.m. and 10:30 a.m. Jury selection in a civil trial shall otherwise correspond to the procedures outlined in section IV of Administrative Order 2020-42.
3. Strikes shall be exercised in a civil trial after all segments have been completed, in a manner otherwise consistent with Iowa Rule of Civil Procedure 1.915.

## **V. NON-JURY TRIALS**

Effective February 1, 2021, all non-jury civil and family law trials shall be held remotely by videoconference (or telephone conference, where allowed by supervisory order). A party will be allowed to object to a remote non-jury trial in a civil proceeding or a family law trial involving custodial issues. All non-custodial family law trials shall be held remotely as of February 1, 2021. An objection to a remote trial in a custodial family law case must establish good cause. All objections to a remote trial shall be heard by the chief judge or his designee. A notice consistent with this order shall be filed in every Polk County non-jury civil case and family law case so that the parties and counsel are advised of this procedure and take such action as is allowed in a timely manner.

## **VI. MISCELLANEOUS**

The provisions set forth herein are subject to modification as circumstances warrant. To the extent the Court's prior administrative orders are not modified herein, they shall remain in full force and effect.

Dated this 15<sup>th</sup> day of January, 2021.



MICHAEL D. HUPPERT, CHIEF JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA

Copies to:  
Chief Justice Susan Christensen, Iowa Supreme Court  
Liaison Justice Edward Mansfield, Iowa Supreme Court  
State Court Administrator, Todd Nuccio  
Fifth Judicial District Judges, Staff and  
Stakeholders by e-mail and  
Posting on Judicial Branch Website